

GARY B MOORE

(Name)

P.O. Box 5002

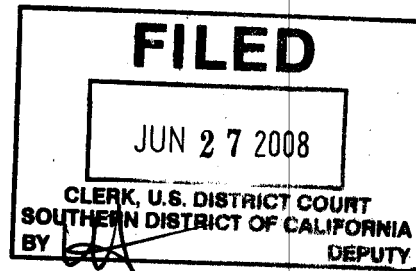
(Address)

Calipatria, CA. 92233

(City, State, Zip)

F 17016

(CDC Inmate No.)

NUNC PRO TUNC  
JUN 26 2008

## United States District Court Southern District of California

GARY B MOORE

(Enter full name of plaintiff in this action.)

Plaintiff,

v.

Sgt CatlettT. OchoaJ. ArayaN. GRANIS

(Enter full name of each defendant in this action.)

Defendant(s).

Civil Case No. 08-0904 IEG (NLS)  
(To be supplied by Court Clerk)

First Amended

Complaint under the  
Civil Rights Act  
42 U.S.C. § 1983.

### A. Jurisdiction

Jurisdiction is invoked pursuant to 28 U.S.C. § 1343(a)(3) and 42 U.S.C. § 1983. If you wish to assert jurisdiction under different or additional authority, list them below.

### B. Parties

1. Plaintiff: This complaint alleges that the civil rights of Plaintiff, GARY B MOORE  
(print Plaintiff's name)

, who presently resides at P.O. Box 5002  
(mailing address or place of confinement)

Calipatria State Prison, were violated by the actions

of the below named individuals. The actions were directed against Plaintiff at Calipatria State Prison on (dates) Since I arrived here in 2006, and

(institution/place where violation occurred)

(Count 1)

(Count 2)

(Count 3)

2. Defendants: (Attach same information on additional pages if you are naming more than 4 defendants.)

Defendant Sgt Cottle resides in Imperial,  
(name) (County of residence)  
 and is employed as a Correctional Sergeant. This defendant is sued in  
(defendant's position/title (if any))  
 his/her ☒ individual ☐ official capacity. (Check one or both.) Explain how this defendant was acting  
 under color of law: because anything done to you by a prison guard,  
prison doctor or prison administrator is an action  
under color of state law

Defendant T. Ochog resides in Imperial,  
(name) (County of residence)  
 and is employed as a Chief Deputy Warden. This defendant is sued in  
(defendant's position/title (if any))  
 his/her ☒ individual ☐ official capacity. (Check one or both.) Explain how this defendant was acting  
 under color of law: because anything done to you by a prison guard,  
prison doctor or prison administrator is an action  
under color of state law

Defendant J. Awaya resides in Imperial,  
(name) (County of residence)  
 and is employed as a CC II Counsel. This defendant is sued in  
(defendant's position/title (if any))  
 his/her ☒ individual ☐ official capacity. (Check one or both.) Explain how this defendant was acting  
 under color of law: because anything done to you by a prison guard,  
prison doctor or prison administrator is an action  
under color of state law

Defendant N. GRANWIS resides in Sacramento,  
(name) (County of residence)  
 and is employed as a N. GRANWIS. This defendant is sued in  
(defendant's position/title (if any))  
 his/her ☒ individual ☐ official capacity. (Check one or both.) Explain how this defendant was acting  
 under color of law: because anything done to you by a prison guard,  
prison doctor, or prison administrator is an action  
under color of state law

**C. Causes of Action** (You may attach additional pages alleging other causes of action and the facts supporting them if necessary.)

**Count 1:** The following civil right has been violated: Refuse to accommodate My  
Medical Physical disability Bradley V. Pickett 157 F.3d 1022 (5th Cir 1998)  
 (E.g., right to medical care, access to courts,  
 due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment,  
 etc.)

**Supporting Facts:** [Include all facts you consider important to Count 1. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, by name, did to violate the right alleged in Count 1.]

I have consistently been denied single cell status  
because of my medical Physical disability, and put in the  
cell with other inmates, thereby putting me in harms  
Way

A few years ago I had two bullets removed from  
my back that affect my movement and body functions

I Regularly urinate on myself and I frequently  
have evacuation of my intestines on myself, because of  
my medical Physical disability.

This causes major problems and arguments  
and even fights with cellmates

Count 2: The following civil right has been violated: The Eighth Amendment  
(E.g., right to medical care, access to courts,  
prohibition also protects my right to safe and somewhat  
due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment,  
etc.) decent conditions in prison

Supporting Facts: [Include all facts you consider important to Count 2. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, by name, did to violate the right alleged in Count 2.]

I have been attacked at Calipatria Prison by cellmates because of this medical disability and I have told Sgt. Catlett about this problem on 5 different occasions between 2006-2007 and he did nothing to help me and I have also wrote several GO2's explaining to administration about this problem.

as a punishment for requesting single cell status for my medical disability. I have been called with "crip" and "Blood" gang members, knowing that I'm not a gang member. making it even more dangerous for me.

Sgt Catlett wanted me to file a legal complaint against these inmates, but I will not file a legal complaint against these inmates OR testify against them in a court. I have to live with these inmates and I don't want to be labeled a (Rat).

I will not testify against these inmates in a "Criminal Court".

Count 3: The following civil right has been violated: Deliberate Indifference  
(E.g., right to medical care, access to courts,

due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.)

Supporting Facts: [Include all facts you consider important to Count 3. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, by name, did to violate the right alleged in Count 3.]

- 1) The Prison officials know about this serious medical disability, and
- 2) Have failed to respond reasonably to it

Dr Young at Calipatria Prison Requested an operation for my back to fix the problem that was denied by this Prison

**D. Previous Lawsuits and Administrative Relief**

1. Have you filed other lawsuits in state or federal courts dealing with the same or similar facts involved in this case? ☐ Yes ☒ No.

If your answer is "Yes", describe each suit in the space below. [If more than one, attach additional pages providing the same information as below.]

(a) Parties to the previous lawsuit:

Plaintiffs: \_\_\_\_\_

Defendants: \_\_\_\_\_

(b) Name of the court and docket number: \_\_\_\_\_

(c) Disposition: [ For example, was the case dismissed, appealed, or still pending?] \_\_\_\_\_

(d) Issues raised: \_\_\_\_\_

(e) Approximate date case was filed: \_\_\_\_\_

(f) Approximate date of disposition: \_\_\_\_\_

2. Have you previously sought and exhausted all forms of informal or formal relief from the proper administrative officials regarding the acts alleged in Part C above? [E.g., CDC Inmate/Parolee Appeal Form 602, etc.] ? ☐ Yes ☐ No.

If your answer is "Yes", briefly describe how relief was sought and the results. If your answer is "No", briefly explain why administrative relief was not sought.

602 Inmate appeal to Director's Level

**E. Request for Relief**

Plaintiff requests that this Court grant the following relief:

1. An injunction preventing defendant(s): a Temporary Restraining  
Order preventing defendant(s) from putting any inmate  
in the cell with me until this issue is settled in  
a court of law
2. Damages in the sum of \$ 1.2 million dollars
3. Punitive damages in the sum of \$ Two hundred thousand dollar each defendant
4. Other: compensatory damages of Two hundred thousand  
dollars each defendant

**F. Demand for Jury Trial**

Plaintiff demands a trial by ☒ Jury ☐ Court. (Choose one.)

**G. Consent to Magistrate Judge Jurisdiction**

In order to insure the just, speedy and inexpensive determination of Section 1983 Prisoner cases filed in this district, the Court has adopted a case assignment involving direct assignment of these cases to magistrate judges to conduct all proceedings including jury or bench trial and the entry of final judgment on consent of all the parties under 28 U.S.C. § 636(c), thus waiving the right to proceed before a district judge. The parties are free to withhold consent without adverse substantive consequences.

The Court encourages parties to utilize this efficient and expeditious program for case resolution due to the trial judge quality of the magistrate judges and to maximize access to the court system in a district where the criminal case loads severely limits the availability of the district judges for trial of civil cases. Consent to a magistrate judge will likely result in an earlier trial date. If you request that a district judge be designated to decide dispositive motions and try your case, a magistrate judge will nevertheless hear and decide all non-dispositive motions and will hear and issue a recommendation to the district judge as to all dispositive motions.

You may consent to have a magistrate judge conduct any and all further proceedings in this case, including trial, and the entry of final judgment by indicating your consent below.

Choose only one of the following:

☐ Plaintiff consents to magistrate judge jurisdiction as set forth above.

OR

☒ Plaintiff requests that a district judge be designated to decide dispositive matters and trial in this case.

June 24, 2008  
Date

Gary B Moore  
Signature of Plaintiff